

June 21, 2013

**VIA ELECTRONIC DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TWA325  
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation  
CG Docket No. 02-278**

Dear Ms. Dortch:

On Wednesday, June 19, 2013, Michele C. Farquhar and Mark W. Brennan of Hogan Lovells US LLP, counsel to the Cargo Airline Association (“CAA”), along with Steve Alterman, CAA President, and CAA member representative Bill Brown met by teleconference with Kris Monteith, Kurt Schroeder, and Lynn Follansbee from the Consumer & Governmental Affairs Bureau to discuss CAA’s pending Petition for Expedited Declaratory Ruling (“Petition”) regarding CAA members’ ability to send non-telemarketing package delivery notifications under the Telephone Consumer Protection Act (“TCPA”).<sup>1</sup>

The CAA representatives explained that granting the Petition and enabling non-telemarketing package delivery notifications to wireless telephone numbers would maximize convenience for consumers, facilitate the timely delivery of packages (including gifts and other packages from third parties), and reduce the serious problem of package theft. The representatives encouraged the Commission to confirm that package delivery companies have “prior express consent” from package recipients when sending delivery notifications under the circumstances identified in the Petition. Specifically, a package sender – which can be a friend, relative, merchant, or similar intermediary – initiates a shipment and provides all of the necessary information (including the recipient’s address and contact information) – to the delivery company.

By providing the package sender with a contact telephone number, the package recipient has authorized calls to that number regarding the delivery, whether by the delivery company or by any other member of the supply chain that facilitates delivery. Because there is no public directory of wireless telephone numbers, the package sender must have obtained the telephone number from the recipient, and the Commission has already confirmed that the provision of a wireless telephone number by the recipient is sufficient to establish “prior express consent.” Therefore, the Commission should confirm that the provision of a package recipient’s wireless telephone number by a package sender (a friend, relative, merchant, or similar intermediary) constitutes “prior express consent” for

---

<sup>1</sup> *Petition for Expedited Declaratory Ruling*, Cargo Airline Association, CG Docket No. 02-278 (filed Aug. 17, 2012).

delivery companies to send autodialed and prerecorded, non-telemarketing customer service notifications related to that package.

The representatives added that the package sender can also be viewed as the agent of the package recipient when providing the telephone number to the package delivery company. As discussed in the Petition, the Commission has repeatedly recognized that parties may act through agents or other designees for purposes of the TCPA's "prior express consent" requirements.<sup>2</sup>

In addition, the representatives explained that the Commission also has authority to declare that package delivery notifications are exempt from the TCPA's restriction on autodialed and prerecorded calls and messages to wireless telephone numbers. Specifically, as discussed in the Petition,<sup>3</sup> the TCPA authorizes the Commission to exempt, from the restriction on autodialed and prerecorded calls and messages, such calls and messages to wireless telephone numbers "that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights the provision is intended to protect."<sup>4</sup> The TCPA also expressly authorizes the Commission to exempt such calls "by rule or order."<sup>5</sup> Non-telemarketing package delivery notifications impose no new charges on package recipients or other consumers, as such notifications can already be made through live calls with manual dialing.

Pursuant to Section 1.1206(b) of the Commission's rules, I am filing this notice electronically in the above-referenced docket. Please contact me directly with any questions.

Respectfully submitted,

/s/ Mark W. Brennan

Mark W. Brennan  
Counsel to the Cargo Airline Association  
mark.brennan@hoganlovells.com  
D 1+ 202 637 6409

cc: Kris Monteith  
Kurt Schroeder  
Lynn Follansbee

---

<sup>2</sup> *Id.* at 5-6.

<sup>3</sup> *Id.* at 6-9.

<sup>4</sup> 47 U.S.C. § 227(b)(2)(C).

<sup>5</sup> *Id.*